Corporate Non-Financial Reporting
Amnesty International position paper
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Why non-financial reporting?

A range of internationally accepted standards on the accountability of companies and responsible business operations underline the importance of companies disclosing non-financial information. These include:

- The UN Guiding Principles on Business and Human Rights, which state that companies "need to know *and show* [emphasis added] that they respect human rights" and that "[s]howing involves communication, providing a measure of transparency and accountability to individuals or groups who may be impacted and to other relevant stakeholders, including investors."[1]

- The OECD Guidelines on Multinational Enterprises, which state that: "Clear and complete information on enterprises is important to a variety of users ranging from shareholders and the financial community to other constituencies such as workers, local communities, special interest groups, governments and society at large. To improve public understanding of enterprises and their interaction with society and the environment, enterprises should be transparent in their operations and responsive to the public's increasingly sophisticated demands for information."[2]

- The World Bank's International Finance Corporation (IFC) Information Disclosure policy acknowledges that: "Transparency is essential to building and maintaining public dialogue" and "is also critical for enhancing good governance, accountability, and development effectiveness."[3] In its Sustainability Framework IFC requires client companies to disclose information stating*:* "The client will provide Affected Communities with access to relevant information on: (i) the purpose, nature, and scale of the project; (ii) the duration of proposed project activities; (iii) any risks to and potential impacts on such communities and relevant mitigation measures; (iv) the envisaged stakeholder engagement process; and (v) the grievance mechanism."[4]

All of these standards call on companies to disclose information that is necessary for stakeholders to understand the business's impact on the environment and human rights.

What must be reported?

When considering what should be included in non-financial disclosure, it is important that the objective of such reporting is clear. The objective of reporting on environmental, social and human rights risks and impacts is to ensure that stakeholders, including affected people and communities, have an accurate picture of the risks a company's operations pose, the measures taken to mitigate those risks, and the actual impact of a company's operations.[5]

In terms of human rights risks and impacts, the standard has been set by the UN Guiding Principles on Business and Human Rights. A company needs to communicate not only the due diligence steps it has taken to become aware and address risks posed by its operations, but also the effectiveness of the implementation of these steps and the extent to which the due diligence process has resulted in respect for human rights. This requires companies to report on identified risks, actual mitigation action, as well as on incidents where negative impacts have occurred.

Reporting on specific incidents and on identified risks

Non-financial reporting must move beyond simply reporting on the policies and processes that a company has in place and the company's philanthropic activities and 'CSR successes'. The standard necessary for compliance with the UN Guiding Principles is that companies communicate on the risks posed by their business operations, and on how they addressed relevant risks and actual impacts.

Non-financial reporting should include specific information on:

- The human rights and environmental risks companies have identified in connection with their operations and how these risks were addressed (including methodology, actions taken to prevent or mitigate, monitoring activities).

- All significant incidents that occurred during the reporting period, i.e. actual incidents of where their operations caused or contributed to human rights abuses or environmental damage. Reporting on incidents should include sufficient information to enable independent verification (time and location of incident, details of the incident, etc.).

Publishing Impact Assessments
Companies in several sectors carry out impact assessments. Environmental and social impact assessments are the most common, although the inclusion of human rights issues within impact assessments is increasing. Non-financial disclosure should list all such assessments and give directions to where they can be accessed. If impact assessments and associated management plans are not made public, non-financial disclosure should state why this is the case, and whether affected individuals and communities have been able to have sight of these documents.

When considering the risks and incidents to include in a report, the company should give due weight to any issues that have been repeatedly raised by stakeholders (for example, impacted workers, communities, investors, NGOs, unions, etc.).

In order to enhance efficiency and clarity, the report can be divided into headings for the several different topics reported on.[6]

Prioritisation versus selectivity in reporting

One of the greatest challenges in corporate social, environmental and human rights reporting at present is the highly selective and discretionary nature of this reporting. Companies choose what to report, and what to exclude. Consequently, companies' annual reports and other communication tools are of very limited value.

For non-financial reporting to be effective, it is not necessary that companies report on every incident that occurs. Reporting should give priority to risks and incidents on the basis of seriousness and scope of impact. All risks and incidents that meet a certain threshold must be reported. Definition of the threshold could be done on both a general level and on a sectoral basis. For example, the risks associated with the extractive sector differ from those associated with the retail sector and non-financial reporting should be focused on the risks most commonly associated with the sector. [7]

Using the guidance companies will determine what has to be reported, prioritizing on the basis of severity and scope of impact. Such prioritisation must be the result of a process that is transparent and able to be independently verified. A company should therefore report on the methodology and decision making process behind the prioritisation.

Reporting on business relationships and supply chain issues

Non-financial disclosure should include risks associated with a company's supply chain and key business relationships (such as joint venture initiatives). Non-financial disclosure should be based on existing guidance within international standards, such as the UN Guiding Principles and OECD Guidelines on Multinational Enterprises. UN Guiding Principle 19 states that companies "should identify and assess any actual or potential adverse human rights impacts with which they may be involved …as a result of their business relationships." At a minimum this should include reporting on risks and impacts related to joint ventures (even if the reporting company is not itself the primary actor involved), and impacts caused by wholly-owned or majority-controlled subsidiaries, as well as those businesses over whose relevant operations the reporting company has contractual control.

Companies should also report on due diligence carried out in relation to their supply chain where the supply chain is a source of significant human rights or environmental risk in relation to the business's operations. For example, in particular sectors (such as minerals, clothing and footwear) the identification of risks and negative impacts across the supply chain will be central to a company's ability to respect human rights and the environment. Companies should disclose the process and scope of their supply chain risks assessments and mitigation measures, as well as reporting on any major incidents.[8]

A "comply or explain" rule

While legitimate reasons may exist not to report on a specific issue, there should be a presumption in favour of disclosure of potential and actual adverse impacts identified by the company in the course of conducting due diligence on social, human rights and environmental impacts. Non-financial reporting should include a "*comply or explain"* rule that requires companies to explain the reason for any failure to disclose required information. This rule should clearly state the parameters of a permissible or reasonable explanation for non-disclosure. Companies frequently offer broad explanations, such as "commercial confidentiality", "legal obstacles" or "cost" for non-disclosure of information. Such general terms are unacceptably broad. Where a company cites such reasons for non-disclosure, the company should provide details which are capable of verification, and ensure that the decision is subjected to a test that takes into account whether non-disclosure could cause harm to the interests of stakeholders, including anyone whose rights would be affected. Moreover, the company should, when a legitimate reason exists to withhold information, only withhold the specific information that is subject to legitimate non-disclose. Companies should ensue that all other issues identified during their due diligence processes are disclosed.

Non-financial reporting: an undue administrative and financial burden on companies?

Some companies argue that a mandatory requirement to disclose non-financial information would constitute an undue administrative and financial burden. However, the evidence from several studies actually shows the opposite can be true. Companies which properly analyse and disclose non-financial information increase their competitiveness, benefit from cost savings, gain easier access to capital, experience improved performance on the financial markets, and enjoy increased stability and better reputation.[9]

Concerns about undue financial and administrative burdens can also be caused by a misunderstanding about the scope of the information required. Non-financial reporting should be based on data and knowledge that any corporation that is duly diligent with regards to its social, environmental and human rights impact would already be collecting, monitoring and discussing at management forums. The UN Guiding Principles and the OECD Guidelines both call for corporate human rights due diligence, and define this as "assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses as well as communicating how impacts are addressed." [10] The information required by non-financial disclosure should be exactly that information any responsible company is already gathering and assessing.

Small and medium enterprises

Another concern that is frequently raised is the capacity of smaller companies to engage in non-financial reporting. However, if reporting requirements are focused on risks and impacts, the nature of the reporting should be manageable for smaller enterprises. While many small businesses would have limited risks and impacts (and therefore limited reporting) some small businesses can have significant impacts. This means that every company should at least initially assess the impact their operations, and this should determine the parameters or extent of reporting. Moreover, if reporting is based on a sectoral understanding of likely risks associated with a given sector, then certain types of business may only be required to do minimal reporting, while sectors that are associated with significant risks and impacts (extractive industries, chemical industries, large-scale commercial agriculture, clothing & textiles) could be required to report in more detail.

Enforcement mechanisms

Requirements for non-financial reporting should ensure that States take appropriate steps to enforce reporting rules. Means to achieve compliance should include legal provisions under which shareholders, investors, persons or organisations regarded under national law as having a legitimate interest in the disclosure of non-financial information, may (a) take legal action against failure of a company to disclose non-financial information and/or (b) bring a failure to disclose before an administrative authority competent either to decide on complaints or to initiate appropriate legal proceedings.

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[1] United Nations Guiding Principles on Business and Human Rights, New York and Geneva 2011, UN Office of the High Commissioner for Human Rights, p. 15 and Guiding Principles 21, p.20.

[2] OECD Guidelines for Multjnational Enterprises, May 2011. par. 28 *Commentary on Disclosure,* p.28.

[3] IFC Disclosure Policy, at: http://www1.ifc.org/wps/wcm/connect/corp_ext_content/ifc_external_corporate_site/ifc+projects+database/projects

[4] IFC Performance Standards on Environmental and Social Sustainability, Performance Standard 1, par. 29 *Disclosure of Information,* 1 January 2012,

[5] The is consistent with the UN Guiding Principles on Business and Human Rights, article 21 of which states (in commentary): "The reporting should cover topics and indicators concerning how enterprises identify and address adverse impacts on human rights."

[6] E.g., apart from headings on the environment (environmental issues often being linked to, or causes of, human rights abuses), reports could include, as appropriate: workers rights (including health & safety, collective bargaining and association, child and forced labour etc.); impacts on communities (health, food, water, housing, freedom of expression, assembly, etc.), and security related rights (right to life, security of person, etc.)

[7] If a company decides to prioritize certain issues for reporting according to their frequency of occurrence or severity of their impact – which should not exclude reporting other impacts - at the minimum the most common or severe impacts should be reported on, e.g. labour issues, community related issues (environmental impacts, health, water, housing etc.), conflict minerals, food safety, security related issues, etc.

[8] There are a number of well-known examples of supply chain monitoring in sectors where serious risks to human rights have been exposed, such as clothing and footwear, minerals and metals and food supply chains. See for example the Fair Labour Association at: http://www.fairlabor.org/;

[9] European Commission Competitiveness Report available at http://ec.europa.eu/enterprise/poloicies/sustainable-business/files/csr/documents/csrreportv002_en.pdf ; KPMG International Survey of Corporate Responsibility Reporting 2011 available at http://www.kpmg.com/Globla/en/IssuesAndInsights/ArticlesPublications/corporate -responsibility/Documents/2011-survey.pdf . Regarding NFR costs: a French study conducted in 2011 evaluated costs of around €50,000 for companies above 500 employees and up to €500,000 for multinationals, according to French legislation. This amounts to about 1-5% of total costs invested in financial reporting. The same research concludes that NFR reporting costs would be incurred mainly in the first starting years and would decrease in the following 3-5 years, Institut RSE Management, 'CE QUE COÛTE LE REPORTING RSE? Observatoire budgétaire de l'information extra-financière', April 2012, p.19.

[10] UNGP 17, OECD Guidelines, IV Human Rights, par. 45 *Commentary on Human Rights*.

ANNEX: Example of the content of non-financial reporting

Non-financial reporting for a high-risk sector should include (with the extractives sector as an example):

- A list of relevant policies on human rights and the environment, and description of how they are operationalized (or a reference to the location – such as a company website – where this information can be obtained).
- A list of all sites where the company has operations, including all joint ventures where the company is the operator.
- The (major) risks associated with the sector and how the company addresses these risks (strategy and actions taken). For an oil company this would be: issues around land use; pollution and associated impacts on water, food, livelihoods, etc.; security related issues; and corruption related issues.
- Risk assessment status: Which sites or projects were subject to risk assessments during the reporting period and have these been made public? If not, why not? For sites where risk assessments were not done, an explanation of why this was not done.
- Publication of all impact assessments undertaken during the reporting period.
- Reports on all actual (major/severe) impacts of the business operations. This should include both the incidents of negative impact that the company accepts occurred and issues consistently raised by local communities and civil society groups, even if the company disputes the allegation. Gender considerations should be included in the reporting. Impact reports should state: location of event, what happened, who was affected, what was affected (specifically land, food, water, etc.). Where the incident involves disputed allegations, the company should set out the position of the affected people, as well as the reasons why the company disputes the allegations made.
- Actions to address negative impacts (which can include why a company does not agree with the allegations made). Status and progress should be reported each year until the situation is resolved.